

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

ANTHONY DAILEY,

Plaintiff,

vs.

CASCADE COUNTY
CORRECTIONAL FACILITY, LT.
BRYCE, C.O. MILLER, UNIT
MANAGER TROMBLEY, and
WARDEN OF CASCADE COUNTY
CORRECTIONAL FACILITY,

Defendants.

CV 14-08-GF-BMM

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
MAGISTRATE JUDGE**

Plaintiff Anthony Dailey filed a Complaint on February 14, 2014, alleging Defendants failed to protect him from an assault by other inmates in violation of the Eighth Amendment to the United States Constitution. (Doc. 2). Dailey is a prisoner proceeding in forma pauperis. (Doc. 4). United States Magistrate Judge Keith Strong granted Dailey leave to amend his Complaint to name a proper defendant on June 26, 2014. (Doc. 6). Dailey filed an Amended Complaint on July 7, 2014, that named as defendants Lt. Bryce, C.O. Miller, Unit Manager Trombley,

and Warden John Doe of C.C.C.F. (Doc. 7). Dailey's Amended Complaint failed to name Cascade County Correctional Facility as a defendant.

United States Magistrate Judge Strong entered Findings and Recommendations in this matter on December 5, 2014. (Doc. 8). Judge Strong concluded that Dailey's allegations against the individual Defendants named in the Amended Complaint are sufficient to state a claim under the Eighth Amendment. Judge Strong recommends that this Court dismiss Dailey's claims against Defendant Cascade County Correctional Facility.

Dailey did not object to Judge Strong's Findings and Recommendations. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review Judge Strong's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach. Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court finds no clear error in Judge Strong's Findings and Recommendations, and adopts them in full. Dailey failed to name the Cascade County Correctional Facility in the Amended Complaint. An amended complaint supersedes the original. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). The fact that a party was named in the original complaint is irrelevant once the

complaint is amended. *Ferdik*, 963 F.2d at 1262. Dailey appears to have abandoned his claims against the Cascade Correctional Facility.

IT IS HEREBY ORDERED:

1. Plaintiff's claims against Defendant Cascade Correctional Facility are DISMISSED.
2. The Clerk is directed to enter judgment accordingly.

DATED this 23rd day of December, 2014.

A handwritten signature in blue ink that reads "Brian Morris". The signature is fluid and cursive, with "Brian" on top and "Morris" below it, both starting with a capital letter.

Brian Morris
United States District Court Judge